

**Notice of Allowability**

Application No.

09/766,511

Applicant(s)

MCCARTHY ET AL.

Examiner

Dong Jiang

Art Unit

1646

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendments filed on 3/9/06, and 3/27/06.
2. ☒ The allowed claim(s) is/are 1, 3-7, 12, 44 and 48-51 to issue as 1, 7, 6, 9, 10, 8, 11, 2-5, respectively.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☒ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |                                                                                                                     |                                                                                        |
|---------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)                                                    | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                    |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|                                                                                                                     | 9. <input type="checkbox"/> Other _____.                                               |

### **EXAMINER'S AMENDMENT**

The request filed on 09 March 2006 for a Continued Examination (RCE) under 37 CFR 1.114 based on parent Application No. 09/766,511 is acceptable, and a RCE has been established.

Applicant's amendment filed on 09 March 2006 is acknowledged and entered. Following the amendment, claims 2 and 31 are canceled, and claim 1 is amended.

Applicant's supplemental amendment filed on 27 March 2006 is acknowledged and entered. Following the amendment, claims 1, 5 and 7 are amended, and the new claims 47-51 are added.

Currently, 1, 3-7, 12, 44 and 47-51 are pending and under consideration.

#### **Formal Matters:**

##### ***Drawings***

The drawings/figures are objected to because tables and sequence listings included in the specification must not be duplicated in the drawings. See 37 C.F.R. §1.58(a) and §1.83. Applicants are advised that upon issuance of a patent, the complete text of the sequence listing submitted in compliance with 37 C.F.R. §§1.821-1.825 will be published as part of the patent. Applicants should amend the specification to delete any Figures which consist only of nucleic acid or protein sequences (except those showing alignment) which have been submitted in their entirety in computer readable format (i.e. as SEQ ID NO:s) and should further amend the specification accordingly to reflect the replacement of the Figure by the appropriate SEQ ID NO:.

Appropriate correction is required.

#### **Examiner's Amendment**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR

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1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mario Cloutier on 24 April 2006.

The application has been amended as follows:

In claim 1, part c), line 3, the word -- full -- has been added before "complement".

Claim 47 has been canceled.

In claim 50, line 3, the word -- full -- has been added before "complement".

**Examiner's Statement of Reasons for Allowance**

The following is an examiner's statement of reasons for allowance:

Claims 1, 3-7, 12, 44 and 47-51 of the present invention are directed to isolated nucleic acid sequences of SEQ ID NO:51 and 52 or those encoding polypeptide of SEQ ID NO:53, variants thereof, vectors containing said nucleic acid, host cells thereof, and a method of recombinantly producing the encoded polypeptide, which is designated TANGO405.

The lack of utility/enableness rejections under 35 U.S.C. 101/112, first paragraph were made initially for the present invention because the asserted utility for the TANGO405 of SEQ ID NO:53 in the instant disclosure is merely based on sequence homology to the known murine dectin-2, which has been shown to be involved in activation of naive T cells and in inflammation and non-T cell mediated immune responses.

In the response filed on 10/24/05, applicants submitted the post-filing date publications by others demonstrating that the present TANGO405 is the human orthologue of murine dectin-2 (by Kanazawa et al., IDS filed on 12/16/04, B2), and that dectin-2 is required for DC-mediated T cell activation (by Ariizumi, IDS filed on 10/24/05, B4), and applicants argue that such is disclosed in the instant specification. This argument is persuasive because the specification discloses that human TANGO405 is the human ortholog of murine dectin-2 (page 53, lines 23-24), that murine dectin-2 has been shown to be involved in activation of naïve T cells (page 56, lines 25-26), and that human and murine TANGO405 proteins are involved both in normal activation of lymphocytes and in aberrant activation of lymphocytes (page 57, lines 6-8).

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Therefore, the rejections of the claims under 35 U.S.C. 101/112, first paragraph for lack of utility/enableness are withdrawn.

Further, the prior art search results do not teach or suggest the nucleic acids of SEQ ID NO:51 and 52, or the nucleic acid encoding the polypeptide of SEQ ID NO:53, nor the recombinant expression and biological function of SEQ ID NO:53.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

**Conclusion:**

Claims 1, 3-7, 12, 44 and 48-51 are allowed.

The allowed claims 1, 3-7, 12, 44 and 48-51 have been renumbered for issuance as the following:

<u>Current claim number</u>	<u>Issuance number</u>
1	1
3	7
4	6
5	9
6	10
7	8
12	11
48	2
49	3
50	4
51	5

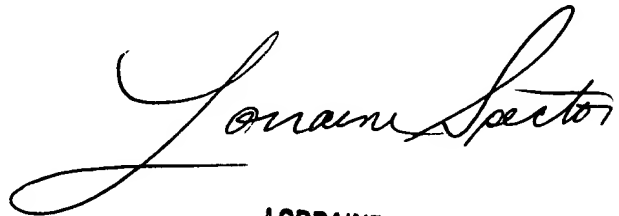
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**Advisory Information:**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dong Jiang whose telephone number is 571-272-0872. The examiner can normally be reached on 9:30 am - 7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brenda Brumback can be reached on 571-272-0961. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



LORRAINE SPECTOR  
PRIMARY EXAMINER

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4/24/06